

**APPENDIX C**  
**FEASIBILITY REPORT**



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Palm Springs-South Coast Field Office  
690 West Garnet Avenue  
P.O. Box 1260  
North Palm Springs, CA 92258-1260



IN REPLY REFER TO:  
2200  
(CA-063.51)

JUL 24 2001

Memorandum

TO: State Director

THROUGH: District Manager, California Desert

FROM: Field Manager, Palm Springs-South Coast Field Office

SUBJECT: Feasibility Report, Exchange of Lands Within the Santa Rosa and San Jacinto Mountains National Monument with the Agua Caliente Band of Cahuilla Indians.

**BACKGROUND** Public Law 106-351 established the Santa Rosa and San Jacinto Mountains National Monument. The Act directed the Secretaries of Interior and Agriculture to make a special effort to consult with the Agua Caliente Band of Cahuilla Indians in preparing and implementing a management plan for the National Monument. The Act also provided specific authorization for Secretary of the Interior to exchange federal lands within the National Monument with the Agua Caliente, including lands which the Bureau of Land Management has acquired with appropriations under the Land and Water Conservation Fund Act.

**Section 6(e) of PL 106-351 provides in part:**

**"In order to support the cooperative management agreement in effect with the Agua Caliente Band of Cahuilla Indians as of the date of enactment of this Act, the Secretary of the Interior may, without further authorization by law, exchange lands which the Bureau of Land Management has acquired using amounts previously provided under the LWCF Act of 1965 (16 U.S.C. 460) with the Agua Caliente Band of Cahuilla Indians. Any such land exchange may include the exchange of federally owned property within or outside the ..... National Monument for property ..... within or outside the ... National Monument."**

The designation of the National Monument has focused attention on the need to coordinate and consolidate ownership of land and management responsibilities in the Monument. The Palm Springs - South Coast Field Office has previously signed agreements with the Agua Caliente to coordinate management and exchange lands and now wish to enter into an Agreement to Initiate an Assembled Land Exchange.

The Agua Caliente wish to acquire public lands which are intermixed with lands in the reservation in T.4S., R.5E. and T.5S., R.5E., San Bernardino Meridian. The Agua Caliente Reservation was established by several Executive Orders in 1876 and 1877, which withdrew even numbered sections in those townships. Sections 16 and 36 and lands previously conveyed were excepted from the withdrawals. Since Congress has sole jurisdiction to modify reservation boundaries, the Reservation is technically limited to those lands previously designated by Executive Order.

Some of the lands withdrawn for the Reservation were subsequently conveyed in a series of trust patents and in some cases Indian Fee patents. One section was withdrawn, conveyed in an Indian Fee patent, and later purchased by BLM with LWCF appropriations (Section 32, T.5S., R.4E.).

## **1. DESCRIPTION OF LANDS PROPOSED FOR EXCHANGE**

### **A. The federal lands are shown on Exhibit A**

The selected federal lands are all within the National Monument and are intermixed with lands of the Agua Caliente Indian Reservation. The federal lands include original public domain lands as well as lands acquired by exchange and purchase with LWCF appropriations.

LR2000, HI, Master Title Plats were searched with the following results:

There are no mining claims of record and because the lands are within the National Monument, the lands are no longer open to mineral entry.

Executive Order (E.O.) 6285, affecting sections 16 & 36, T.5S., R.4E., temporarily withdrew the lands for consideration for a national monument. Under its terms, the E.O. is in effect until revoked by the President or by an Act of Congress. We assume the legislation designating the National Monument effectively terminated this withdrawal.

Under CARI 1390 some of the lands were classified for multiple use, but the classification does not preclude the exchange.

The MTP shows a remaining Small Tract Classification in the N1/2SW1/4NW1/4SW1/4, sec. 36, T.4S., R.4E. This classification must be lifted before the lands can be exchanged.

The following rights of way are on the federal lands:

CARI 04966 for Flood Control purposes in sec. 16, T.4S., R.4E., SBM.

CACA 8568 for parking area in section 36, T.4S., R.4E., SBM.

CARI 4693 for Water Tank in section 36, T.4S., R.4E., SBM.

### **B. Offered non-federal lands:**

The Agua Caliente have offered to purchase and transfer to the U.S. private lands within the National Monument. A priority would be given to the acquisition of bighorn sheep habitat within the National Monument. Generally the lands to be acquired in this exchange would be within the following townships and ranges:

T.5S., R.5&6E.

T.6S., R.5&6E.

T.7S., R.6&7E.

T.8S., R.7&8E.

Several specific parcels of private lands have been identified at this time and are shown on Exhibit B. These parcels are based on anticipated acquisition opportunities, and the Agua Caliente are currently negotiating to purchase these lands. As additional opportunities arise, we expect to amend this feasibility report to address specific additional private lands. Based on a 1992 title report, there are no encumbrances on the private lands.

## **2. CONSISTENCY WITH LAND USE PLAN**

The federal and non federal lands proposed for exchange are all within the National Monument, which is within the California Desert Conservation Area (CDCA). Pending completion of a management plan for the National Monument, lands within the Monument are to be managed consistent with the 1980 CDCA Plan as amended. Under the CDCA Plan, "Lands will be acquired, disposed of, or exchanged in accordance with FLPMA ....to assure more efficient management of the public lands and to reduce conflicts with other public and private lands owners to provide more consistency and logic in desert-wide land use patterns." We believe the exchange would clearly assure more efficient management of the public lands and provide more consistency in desert-wide land use patterns.

## **3. INTENDED LAND USE**

The selected federal lands are adjacent to and intermingled with lands within the Agua Caliente Reservation. Generally, the federal lands are isolated, with access typically controlled by the Agua Caliente. Unless subsequently placed into trust status, lands acquired by the Agua Caliente would be tribal fee lands. The Agua Caliente have expressed an interest in having the federal lands they acquire placed in trust status.

The Agua Caliente have agreed to manage the federal lands they receive to preserve their biological, cultural, recreational and scientific values, which would be consistent with the purposes of the National Monument. Although the lands would leave federal jurisdiction and may not be available for public use and enjoyment it is reasonable to assume that the resource values on those lands would not be lost to development.

Upon acquisition, the non-federal lands would be administered like other federal lands in the National Monument.

## **4. PRELIMINARY REVIEW OF RESOURCES**

Because both the federal lands and the non-federal lands are within the National Monument, we expect the resource values on the lands to be acquired would generally be equivalent to the resource values on the federal lands to be exchanged.

Both the federal and non-federal lands are habitat for the Peninsular Big Horn sheep, an endangered species.

## **5. LAND VALUES**

### **Selected Federal Lands:**

We do not have current value estimates for federal lands, but have listed past appraised values used in acquisitions next to the lands in Exhibit A. For the public lands near the Monument boundary and close to development it is not possible to accurately estimate values. We expect the total value of the public lands to be in excess of \$2,000,000.

### **Offered Non-Federal Lands**

We do not have current appraisals of the non-federal lands. However, most of these lands were appraised in 1992 and these values are shown on Exhibit B. We know from past transactions that values in the National Monument can vary significantly based on the potential for development. The total value of the non-federal lands in exhibit B is not likely to exceed \$2 million dollars. Any difference in value would be made up by adding or deleting lands to the extent feasible. We expect it will take several exchange transaction before all of the federal lands are transferred to the Agua Caliente and wish to utilize an assembled land exchange ledger to carry forward any differences in value in each transaction.

#### **6. FUNDING AND STAFFING**

BLM staff participation will involve geologist, appraiser, wildlife biologist, archeologist, and realty specialist. BLM will use 1430 funding for the exchange, or funds made available through the Bureau of Indian Affairs.

BLM would be responsible for:

1. Preparing and publishing the Notice of Exchange Proposal (NOEP).
2. Adjudicating the public land records for mining claims, withdrawals, classifications, authorizations, trespasses; and taking actions, when feasible, to allow disposal of the public lands.
3. Consulting with U.S. Fish & Wildlife Service and the California Department of Fish & Game regarding the exchange of lands.
4. Completing determinations regarding historic properties on the federal lands and, if necessary consulting with the State Historic Preservation Officer.
5. Preparing the NEPA document for the land exchange.
6. Preparing and publishing the Notice of Decision (NOD).
7. Drafting escrow instructions and all documents of conveyances.

The Agua Caliente would be responsible for:

1. Providing preliminary title evidence.
2. Arranging for appraisals of the Federal and non-Federal lands, consistent with 43 CFR 2201.3 to be completed by an appraiser under contract to BLM. Appraisals will be completed in stages based on the priorities agreed upon by the parties.
3. Providing the following studies, reports or clearances on the Federal lands:
  - a. Mineral potential
  - b. Cultural resources
  - c. Biological resources, including biological assessments
4. Contributing funds to the BLM to pay exchange processing costs in the absence of a specific federal appropriation to pay such costs.

BLM would agree to compensate the Agua Caliente for the assuming the costs of preparing reports on the federal lands. Compensation would be by means of adjusting the relative values in the exchange and conveying additional federal lands or using LWCF appropriated funds.

#### **7. TIME FRAMES**

1. 2001, BLM to complete review of feasibility report.
2. 2001, Agreement to Initiate land exchange to be signed.
3. 2001, BLM to publish Notice of Exchange Proposal.
4. 2001 BLM to remove small tract classification.
5. 2002 BLM & Agua Caliente to prepare reports.
6. 2002, BLM to publish Notice of Decision

7. 2002, complete first exchange transaction exchange.

#### 8. OTHER INFORMATION

Due to the presence of habitat for the Peninsular Big Horn Sheep on the federal lands, the exchange would require consultation under section 7 of the Endangered Species Act.

The lands selected by the Agua Caliente are mixture of public domain lands, and public lands acquired by exchange and purchase using LWCF appropriations. Since BLM policy is to retain lands acquired with LWCF appropriations, this exchange would be an exception to that policy.

It is unclear if this exchange would be completed under the authority of section 206 of FLPMA or discretionary authority granted in the National Monument legislation. Section 207 of FLPMA provides that "No tract of land may be disposed of ...to any person who is not a citizen of the United States, or in the case of a corporation, subject to the laws of any State or of the United States." As a sovereign entity, the Agua Caliente are technically not subject to the State law in California.

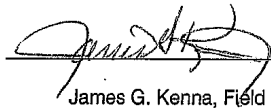
Regardless of the authority, the exchange would be processed consistent with the regulations at 43CFR2200.

#### 9. RECOMMENDATION

In order to achieve the purposes of National Monument, BLM must enter into partnerships with other entities having jurisdiction over lands in the area. The exchange represents an opportunity to enlist the Agua Caliente as a partner in the management and preservation of lands in the National Monument.

The exchange would result in long term public benefits of consolidation of ownership and preservation of lands within the National Monument. The consolidation of ownership would facilitate greater accessibility to the public lands and reduce the potential for development incompatible with the public land management objectives.

Recommended by:

 7/19/01  
James G. Kenna, Field Manager

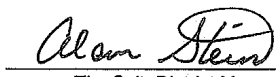
 7-24-2001  
Tim Salt, District Manager

EXHIBIT A  
FEDERAL LANDS PROPOSED FOR EXCHANGE

- T.4S., R.4E., section 16, all (public domain)  
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot1, N1/2 of lot2 (Acquired with LWCF in 1993 & 1994 for \$58,800)  
section 36, lots 1-4, W1/2E1/2, E1/2SW1/4, SW1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, (public domain),
- T.5S., R.4E., section 5, lots 1-4, S1/2N1/2, S1/2, (Acquired with LWCF in 1992 for \$123,000)  
section 16, (Public domain)  
sections, 21, 27, & 29, all (Acquired by exchange)  
section 32, all (Acquired with LWCF in 1996 for \$230,000)  
section 36, (Public domain)

Total of approximately 5,783.07 acres

Note: the Master Title Plat (MTP), and Palm Springs Desert Access Guide (DAG) provide conflicting status information in this township. The DAG indicates sections 33 and 35 are National Forest lands, while the MTP and HI show these lands were part of a railroad grant patent in 1906. We have confirmed that these lands were acquired by the Forest Service using LWCF appropriations, but not noted to the HI or the MTP.

EXHIBIT B  
NON - FEDERAL LANDS

T.5S., R.5E., section 7, (valued in 1992 at \$982,000)  
section 19, (valued in 1992 at \$492,000)  
section 20, W1/2W1/2 (valued in 1992 at \$120,000)

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